

AMENDMENT NO. _____

Calendar No. _____

Purpose: To provide for a substitute.

IN THE SENATE OF THE UNITED STATES—108th Cong., 1st Sess.

S. 627

To prevent the use of certain payment instruments, credit cards, and fund transfers for unlawful Internet gambling, and for other purposes.

Referred to the Committee on _____
and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended
to be proposed by Mr. SHELBY

Viz:

1 Strike all after the enacting clause and insert the fol-
2 lowing:

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Internet Gambling
5 Funding Prohibition Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

1 (1) Internet gambling is primarily funded
2 through personal use of payment system instru-
3 ments, credit cards, and wire transfers;

4 (2) the National Gambling Impact Study Com-
5 mission in 1999 recommended the passage of legisla-
6 tion to prohibit wire transfers to Internet gambling
7 sites or the banks which represent them;

8 (3) Internet gambling is a growing cause of
9 debt collection problems for insured depository insti-
10 tutions and the consumer credit industry;

11 (4) Internet gambling conducted through off-
12 shore jurisdictions has been identified by United
13 States law enforcement officials as a significant
14 money laundering vulnerability; and

15 (5) gambling through the Internet, which has
16 grown rapidly in the half-decade preceding the en-
17 actment of this Act, opens up the possibility of im-
18 mediate, individual, 24-hour access in every home to
19 the full range of wagering opportunities on sporting
20 events or casino-like contests, such as roulette, slot
21 machines, poker, or blackjack.

1 **SEC. 3. PROHIBITION ON ACCEPTANCE OF ANY PAYMENT**
2 **SYSTEM INSTRUMENT, CREDIT CARD, OR**
3 **FUND TRANSFER FOR INTERNET GAMBLING.**

4 (a) IN GENERAL.—Chapter 53 of title 31, United
5 States Code, is amended by adding at the end the fol-
6 lowing:

7 “SUBCHAPTER IV—PROHIBITION ON FUNDING
8 OF INTERNET GAMBLING

9 “§ 5361. Definitions

10 “For purposes of this subchapter, the following defi-
11 nitions shall apply:

12 “(1) BET OR WAGER.—The term ‘bet or
13 wager’—

14 “(A) means the staking or risking by any
15 person of something of value upon the outcome
16 of a contest of others, a sporting event, or a
17 game subject to chance, upon an agreement or
18 understanding that the person or another per-
19 son will receive something of value in the event
20 of a certain outcome;

21 “(B) includes the purchase of a chance or
22 opportunity to win a lottery or other prize
23 (which opportunity to win is predominantly sub-
24 ject to chance);

1 “(C) includes any scheme of a type de-
2 scribed in section 3702 of title 28, United
3 States Code;

4 “(D) includes any instructions or informa-
5 tion pertaining to the establishment or move-
6 ment of funds in, to, or from an account by the
7 bettor or customer with regard to the business
8 of betting or wagering; and

9 “(E) does not include—

10 “(i) any activity governed by the secu-
11 rities laws (as that term is defined in sec-
12 tion 3(a)(47) of the Securities Exchange
13 Act of 1934) for the purchase or sale of se-
14 curities (as that term is defined in section
15 3(a)(10) of that Act);

16 “(ii) any transaction conducted on or
17 subject to the rules of a registered entity
18 or exempt board of trade pursuant to the
19 Commodity Exchange Act;

20 “(iii) any over-the-counter derivative
21 instrument;

22 “(iv) any other transaction that—

23 “(I) is excluded or exempt from
24 regulation under the Commodity Ex-
25 change Act; or

1 “(II) is exempt from State gam-
2 ing or bucket shop laws under section
3 12(e) of the Commodity Exchange Act
4 or section 28(a) of the Securities Ex-
5 change Act of 1934;

6 “(v) any contract of indemnity or
7 guarantee;

8 “(vi) any contract for insurance;

9 “(vii) any deposit or other transaction
10 with an insured institution; or

11 “(viii) any participation in a simula-
12 tion sports game, an educational game, or
13 a contest, that—

14 “(I) is not dependent solely on
15 the outcome of any single sporting
16 event or nonparticipant’s singular in-
17 dividual performance in any single
18 sporting event;

19 “(II) has an outcome that re-
20 flects the relative knowledge of the
21 participants, or their skill at physical
22 reaction or physical manipulation (but
23 not chance), and, in the case of a sim-
24 ulation sports game, has an outcome
25 that is determined predominantly by

1 accumulated statistical results of
2 sporting events; and

3 “(III) offers a prize or award to
4 a participant that is established in ad-
5 vance of the game or contest and is
6 not determined by the number of par-
7 ticipants or the amount of any fees
8 paid by those participants.

9 “(2) BUSINESS OF BETTING OR WAGERING.—
10 The term ‘business of betting or wagering’ does not
11 include any creditor, credit card issuer, insured in-
12 stitution, or other financial institution, operator of a
13 terminal at which an electronic fund transfer may be
14 initiated, money transmitting business, or inter-
15 national, national, regional, or local network utilized
16 to effect a credit transaction, electronic fund trans-
17 fer, stored value product transaction, or money
18 transmitting service, or any participant in such net-
19 work, or any interactive computer service or tele-
20 communications service.

21 “(3) CLOSED-LOOP SUBSCRIBER-BASED SERV-
22 ICE.—The term ‘closed-loop subscriber-based service’
23 means any information service or system that uses—

24 “(A) a device or combination of devices—

1 “(i) expressly authorized and operated
2 in accordance with the laws of a State, ex-
3 clusively for placing, receiving, or otherwise
4 making a bet or wager described in sub-
5 section (b)(1) or (c)(1) of section 5363;
6 and

7 “(ii) by which a person located within
8 any State must subscribe and be registered
9 with the provider of the wagering service
10 by name, address, and appropriate billing
11 information to be authorized to place, re-
12 ceive, or otherwise make a bet or wager,
13 and must be physically located within that
14 State in order to be authorized to do so;

15 “(B) an effective customer verification and
16 age verification system, expressly authorized
17 and operated in accordance with the laws of the
18 State in which it is located, and a system rea-
19 sonably designed to verify the location at which
20 a bet or wager is made, to ensure that all appli-
21 cable Federal and State legal and regulatory re-
22 quirements for lawful gambling are met; and

23 “(C) appropriate data security standards
24 to prevent unauthorized access by any person
25 who has not subscribed or who is a minor.

1 “(4) DESIGNATED PAYMENT SYSTEM.—The
2 term ‘designated payment system’ means any system
3 utilized by any creditor, credit card issuer, financial
4 institution, operator of a terminal at which an elec-
5 tronic fund transfer may be initiated, money trans-
6 mitting business, or international, national, regional,
7 or local network utilized to effect a credit trans-
8 action, electronic fund transfer, stored value product
9 transaction, or money transmitting service, or any
10 participant in such network, that the Secretary, in
11 consultation with the Board of Governors of the
12 Federal Reserve System and the Attorney General of
13 the United States, determines, by regulation or
14 order, could be utilized in connection with, or to fa-
15 cilitate, any restricted transaction.

16 “(5) INTERNET.—The term ‘Internet’ means
17 the international computer network of interoperable
18 packet switched data networks.

19 “(6) INTERACTIVE COMPUTER SERVICE.—The
20 term ‘interactive computer service’ has the same
21 meaning as in section 230(f) of the Communications
22 Act of 1934.

23 “(7) INTERNET GAMBLING.—The term ‘Inter-
24 net gambling’ means the placing, receipt, or other

1 transmission of a bet or wager by any means which
2 involves the use, at least in part, of the Internet.

3 “(8) OFFICE.—The term ‘Office’ means the Of-
4 fice of Electronic Funding Oversight, established
5 under section 5362.

6 “(9) PRIVATE NETWORK.—The term ‘private
7 network’ means a communications channel or chan-
8 nels, including voice or computer data transmission
9 facilities, that uses either—

10 “(A) private dedicated lines; or

11 “(B) the public communications infrastruc-
12 ture, if the infrastructure is secured by means
13 of the appropriate private communications tech-
14 nology to prevent unauthorized access.

15 “(10) RESTRICTED TRANSACTION.—The term
16 ‘restricted transaction’ means any transaction or
17 transmittal involving any credit, funds, instrument,
18 or proceeds described in any paragraph of section
19 5363(a) which the recipient is prohibited from ac-
20 cepting under section 5363.

21 “(11) SECRETARY.—The term ‘Secretary’
22 means the Secretary of the Treasury.

23 “(12) OTHER TERMS.—

24 “(A) CREDIT; CREDITOR; CREDIT CARD;
25 AND CARD ISSUER.—The terms ‘credit’, ‘cred-

1 itor’, ‘credit card’, and ‘card issuer’ have the
2 same meanings as in section 103 of the Truth
3 in Lending Act.

4 “(B) ELECTRONIC FUND TRANSFER.—The
5 term ‘electronic fund transfer’—

6 “(i) has the same meaning as in sec-
7 tion 903 of the Electronic Fund Transfer
8 Act, except that such term includes trans-
9 fers that would otherwise be excluded
10 under section 903(6)(E) of that Act; and

11 “(ii) includes any fund transfer cov-
12 ered by Article 4A of the Uniform Com-
13 mercial Code, as in effect in any State.

14 “(C) FINANCIAL INSTITUTION.—The term
15 ‘financial institution’ has the same meaning as
16 in section 903 of the Electronic Fund Transfer
17 Act, except that such term does not include a
18 casino, sports book, or other business at or
19 through which bets or wagers may be placed or
20 received.

21 “(D) INSURED INSTITUTION.—The term
22 ‘insured institution’ means—

23 “(i) an insured depository institution,
24 as defined in section 3 of the Federal De-
25 posit Insurance Act; and

1 “(ii) an insured credit union, as de-
2 fined in section 101 of the Federal Credit
3 Union Act.

4 “(E) MONEY TRANSMITTING BUSINESS
5 AND MONEY TRANSMITTING SERVICE.—The
6 terms ‘money transmitting business’ and
7 ‘money transmitting service’ have the same
8 meanings as in section 5330(d) (determined
9 without regard to any regulations issued by the
10 Secretary thereunder).

11 **“§ 5362. Office of electronic funding oversight; poli-**
12 **cies and procedures to identify and pre-**
13 **vent restricted transactions**

14 “(a) ESTABLISHMENT OF TREASURY OFFICE.—

15 “(1) IN GENERAL.—There is established within
16 the Department of the Treasury, the Office of Elec-
17 tronic Funding Oversight, the purposes of which
18 are—

19 “(A) to coordinate Federal efforts to pro-
20 hibit restricted transactions; and

21 “(B) otherwise to carry out the duties
22 specified in this subchapter.

23 “(2) DIRECTOR.—The Office shall be headed by
24 a Director, appointed by the Secretary. The director
25 of the Office may serve as the designee of the Sec-

1 retary, at the request of the Secretary, for any pur-
2 pose under this subchapter.

3 “(b) REGULATIONS.—Not later than 270 days after
4 the date of enactment of this subchapter, the Secretary,
5 in consultation with the Board of Governors of the Federal
6 Reserve System and the Attorney General of the United
7 States, shall prescribe regulations requiring each des-
8 ignated payment system, and all participants therein, to
9 identify and prevent restricted transactions through the
10 establishment of policies and procedures reasonably de-
11 signed to—

12 “(1) allow the payment system and any person
13 involved in the payment system to identify restricted
14 transactions by means of codes in authorization mes-
15 sages or by other means;

16 “(2) block restricted transactions identified as a
17 result of the policies and procedures developed pur-
18 suant to paragraph (1); and

19 “(3) prevent the acceptance of the products or
20 services of the payment system in connection with a
21 restricted transaction.

22 “(c) REQUIREMENTS FOR POLICIES AND PROCE-
23 DURES.—In prescribing regulations pursuant to sub-
24 section (b), the Secretary shall—

1 “(1) identify types of policies and procedures,
2 including nonexclusive examples, which would be
3 deemed, as applicable, to be ‘reasonably designed to
4 identify’ and ‘reasonably designed to block’, or ‘rea-
5 sonably designed to prevent the acceptance of the
6 products or services’ with respect to each type of re-
7 stricted transaction;

8 “(2) to the extent practical, permit any partici-
9 pant in a payment system to choose among alter-
10 native means of identifying and blocking, or other-
11 wise preventing the acceptance of the products or
12 services of the payment system or participant in con-
13 nection with, restricted transactions; and

14 “(3) consider exempting restricted transactions
15 from any requirement imposed under such regula-
16 tions, if the Secretary finds that it is not reasonably
17 practical to identify and block, or otherwise prevent,
18 such transactions.

19 “(d) COMPLIANCE WITH PAYMENT SYSTEM POLI-
20 CIES AND PROCEDURES.—A creditor, credit card issuer,
21 financial institution, operator of a terminal at which an
22 electronic fund transfer may be initiated, money transmit-
23 ting business, or international, national, regional, or local
24 network utilized to effect a credit transaction, electronic
25 fund transfer, stored value product transaction, or money

1 transmitting service, or a participant in such network,
2 shall be considered to be in compliance with the regula-
3 tions prescribed under subsection (b), if—

4 “(1) such person relies on and complies with
5 the policies and procedures of a designated payment
6 system of which it is a member or participant—

7 “(A) to identify and block restricted trans-
8 actions; and

9 “(B) to otherwise prevent the acceptance
10 of the products or services of the payment sys-
11 tem, member, or participant in connection with
12 restricted transactions; and

13 “(2) such policies and procedures of the des-
14 ignated payment system comply with the require-
15 ments of regulations prescribed under subsection
16 (b).

17 “(e) NO LIABILITY FOR BLOCKING OR REFUSING TO
18 HONOR RESTRICTED TRANSACTIONS.—A person that is
19 subject to a regulation prescribed or order issued under
20 this subchapter and blocks, or otherwise refuses to honor,
21 a restricted transaction (or a transaction that such person
22 reasonably believes to be a restricted transaction), or as
23 a member of a designated payment system relies on the
24 policies and procedures of the payment system, in an ef-

1 fort to comply with regulations prescribed under sub-
2 section (b), shall not be liable to any party for such action.

3 “(f) REGULATORY ENFORCEMENT.—Regulations
4 issued by the Secretary under this subchapter shall be en-
5 forced by the Federal functional regulators and the Fed-
6 eral Trade Commission, in the manner provided in section
7 505(a) of the Gramm-Leach-Bliley Act.

8 **“§ 5363. Prohibition on acceptance of any bank in-**
9 **strument for Internet gambling**

10 “(a) PROHIBITION.—No person engaged in the busi-
11 ness of betting or wagering may knowingly accept, in con-
12 nection with the participation of another person in Inter-
13 net gambling—

14 “(1) credit, or the proceeds of credit, extended
15 to or on behalf of such other person (including credit
16 extended through the use of a credit card);

17 “(2) an electronic fund transfer, or funds trans-
18 mitted by or through a money transmitting business,
19 or the proceeds of an electronic fund transfer or
20 money transmitting service, from or on behalf of
21 such other person;

22 “(3) any check, draft, or similar instrument
23 which is drawn by or on behalf of such other person
24 and is drawn on or payable at or through any finan-
25 cial institution; or

1 “(4) the proceeds of any other form of financial
2 transaction, as the Secretary may prescribe by regu-
3 lation, which involves a financial institution as a
4 payor or financial intermediary on behalf of or for
5 the benefit of such other person.

6 “(b) RULE OF APPLICATION.—

7 “(1) LIMITATION.—Subject to paragraph (2),
8 the prohibition in subsection (a) does not apply to
9 any otherwise lawful bet or wager that is placed, re-
10 ceived, or otherwise made on an interstate or intra-
11 state basis on a live horse or a live dog race, or the
12 sending, receiving, or inviting of information assist-
13 ing in the placing of such a bet or wager, if such
14 bet or wager, or the transmission of such informa-
15 tion, as applicable, is—

16 “(A) expressly authorized, and licensed or
17 regulated by the State in which such bet or
18 wager is received, under applicable Federal law
19 and the laws of that State;

20 “(B) placed on a closed-loop subscriber-
21 based service;

22 “(C) initiated from a State in which bet-
23 ting or wagering on that same type of live horse
24 or live dog racing is lawful and received in a

1 State in which such betting or wagering is law-
2 ful;

3 “(D) subject to the regulatory oversight of
4 the State in which the bet or wager is received,
5 and subject to minimum control standards for
6 the accounting, regulatory inspection, and au-
7 diting by such State of all such bets or wagers
8 transmitted from 1 State to another; and

9 “(E) in the case of—

10 “(i) live horse racing, made in accord-
11 ance with the Interstate Horse Racing Act
12 of 1978 (15 U.S.C. 3001 et seq.); or

13 “(ii) live dog racing, subject to con-
14 sent agreements that are comparable to
15 those required by the Interstate Horse
16 Racing Act of 1978, approved by the ap-
17 propriate State regulatory agencies, in the
18 State receiving the signal, and in the State
19 in which the bet or wager originates.

20 “(2) BETS OR WAGERS MADE BY AGENTS OR
21 PROXIES.—

22 “(A) IN GENERAL.—The exception under
23 paragraph (1) does not apply in any case in
24 which a bet or wager is placed, received, or oth-
25 erwise made by the use of an agent or proxy

1 using the Internet or an interactive computer
2 service.

3 “(B) QUALIFICATION.—Nothing in this
4 paragraph may be construed to prohibit the
5 owner operator of a parimutuel wagering facil-
6 ity that is licensed by a State from employing
7 an agent in the operation of the account wager-
8 ing system owned or operated by the parimutuel
9 facility.

10 “(c) OTHER RULES OF APPLICATION.—

11 “(1) LIMITATION.—Subject to paragraph (2),
12 the prohibition in subsection (a) does not apply to
13 any otherwise lawful bet or wager that is placed, re-
14 ceived, or otherwise made on any game that con-
15 stitutes class II gaming or class III gaming (as
16 those terms are defined in section 4 of the Indian
17 Gaming Regulatory Act, 25 U.S.C. 2703), or the
18 sending, receiving, or inviting of information assist-
19 ing in the placing of any such bet or wager, as appli-
20 cable, if—

21 “(A) the game is permitted under and con-
22 ducted in accordance with the Indian Gaming
23 Regulatory Act (25 U.S.C. 2701 et seq.);

24 “(B) each person placing, receiving, or oth-
25 erwise making such bet or wager, or transmit-

1 ting such information, is physically located on
2 Indian lands (as that term is defined in section
3 4 of the Indian Gaming Regulatory Act, 25
4 U.S.C. 2703) when such person places, receives,
5 or otherwise makes the bet or wager, or trans-
6 mits such information;

7 “(C) the game is conducted on a closed-
8 loop subscriber-based system or a private net-
9 work; and

10 “(D) in the case of a game that constitutes
11 class III gaming—

12 “(i) the game is authorized under,
13 and is conducted in accordance with, the
14 respective Tribal-State compacts (entered
15 into and approved pursuant to section
16 11(d) of the Indian Gaming Regulatory
17 Act, 25 U.S.C. 2710) governing gaming
18 activity on the Indian lands, in each re-
19 spective State, on which each person plac-
20 ing, receiving, or otherwise making such
21 bet or wager, or transmitting such infor-
22 mation, is physically located when such
23 person places, receives, or otherwise makes
24 the bet or wager, or transmits such infor-
25 mation; and

1 “(ii) each such Tribal-State compact
2 expressly provides that the game may be
3 conducted using the Internet or other
4 interactive computer service only on a
5 closed-loop subscriber-based system or a
6 private network.

7 “(2) ACTIVITIES UNDER EXISTING COM-
8 PACTS.—

9 “(A) IN GENERAL.—The requirement of
10 paragraph (1)(D)(ii) does not apply in the case
11 of gaming activity, otherwise subject to this sec-
12 tion, that was being conducted on Indian lands
13 on July 31, 2003, using the Internet or other
14 interactive computer service, with the approval
15 of the State gaming commission or like regu-
16 latory authority of the State in which such In-
17 dian lands are located, but without such re-
18 quired compact approval, until the date on
19 which the compact governing gaming activity on
20 such Indian lands expires (exclusive of any
21 automatic or discretionary renewal or extension
22 of such compact), if such gaming activity is
23 conducted using the Internet or other inter-
24 active computer service only on a closed-loop
25 subscriber-based system or a private network.

1 “(B) DEFINITION.—For purposes of this
2 paragraph, the phrase ‘conducted on Indian
3 lands’ shall refer to all Indian lands on which
4 any person placing, receiving, or otherwise mak-
5 ing a bet or wager, or sending, receiving, or in-
6 viting information assisting in the placing of a
7 bet or wager, is physically located when such
8 person places, receives, or otherwise makes the
9 bet or wager, or sends, receives, or invites such
10 information.

11 **“§ 5364. Civil remedies**

12 “(a) JURISDICTION.—The district courts of the
13 United States shall have original and exclusive jurisdiction
14 to prevent and restrain violations of this subchapter or
15 the rules or regulations issued under this subchapter by
16 issuing appropriate orders in accordance with this section,
17 regardless of whether a prosecution has been initiated
18 under this subchapter.

19 “(b) PROCEEDINGS.—

20 “(1) INSTITUTION BY FEDERAL GOVERN-
21 MENT.—

22 “(A) IN GENERAL.—The United States,
23 acting through the Attorney General of the
24 United States, or, in the case of rules or regula-
25 tions issued under this subchapter, through an

1 agency authorized to enforce such regulations
2 in accordance with this subchapter, may insti-
3 tute proceedings under this section to prevent
4 or restrain a violation or a threatened violation
5 of this subchapter or such rules or regulations.

6 “(B) RELIEF.—Upon application of the
7 United States under this paragraph, the district
8 court may enter a preliminary injunction or an
9 injunction against any person to prevent or re-
10 strain a violation or threatened violation of this
11 subchapter or the rules or regulations issued
12 under this subchapter, in accordance with rule
13 65 of the Federal Rules of Civil Procedure.

14 “(2) INSTITUTION BY STATE ATTORNEY GEN-
15 ERAL.—

16 “(A) IN GENERAL.—The attorney general
17 (or other appropriate State official) of a State
18 in which a violation of this subchapter allegedly
19 has occurred or will occur may institute pro-
20 ceedings under this section to prevent or re-
21 strain the violation or threatened violation.

22 “(B) RELIEF.—Upon application of the at-
23 torney general (or other appropriate State offi-
24 cial) of an affected State under this paragraph,
25 the district court may enter a preliminary in-

1 junction or an injunction against any person to
2 prevent or restrain a violation or threatened
3 violation of this subchapter, in accordance with
4 rule 65 of the Federal Rules of Civil Procedure.

5 “(3) INDIAN LANDS.—Notwithstanding para-
6 graphs (1) and (2), for a violation of this subchapter
7 or the rules or regulations issued under this sub-
8 chapter that is alleged to have occurred, or may
9 occur, on Indian lands (as that term is defined in
10 section 4 of the Indian Gaming Regulatory Act)—

11 “(A) the United States shall have the en-
12 forcement authority provided under paragraph
13 (1); and

14 “(B) the enforcement authorities specified
15 in an applicable Tribal-State compact nego-
16 tiated under section 11 of the Indian Gaming
17 Regulatory Act (including such authorities that
18 may apply to activities described in section
19 5363(c)) shall be carried out in accordance with
20 that compact.

21 “(c) EXPEDITED PROCEEDINGS.—In addition to any
22 proceeding under subsection (b), a district court may, in
23 exigent circumstances, enter a temporary restraining
24 order against a person alleged to be in violation of this
25 subchapter or the rules or regulations issued under this

1 subchapter, upon application of the United States under
2 subsection (b)(1), or the attorney general (or other appro-
3 priate State official) of an affected State under subsection
4 (b)(2), in accordance with rule 65(b) of the Federal Rules
5 of Civil Procedure.

6 “(d) LIMITATION RELATING TO INTERACTIVE COM-
7 PUTER SERVICES.—

8 “(1) IN GENERAL.—Relief granted under this
9 section against an interactive computer service
10 shall—

11 “(A) be limited to the removal of, or dis-
12 abling of access to, an online site violating this
13 subchapter, or a hypertext link to an online site
14 violating this subchapter, that resides on a com-
15 puter server that such service controls or oper-
16 ates, except that the limitation in this subpara-
17 graph shall not apply if the service is subject to
18 liability under this section pursuant to section
19 5366;

20 “(B) be available only after notice to the
21 interactive computer service and an opportunity
22 for the service to appear are provided;

23 “(C) not impose any obligation on an
24 interactive computer service to monitor its serv-

1 ice or to affirmatively seek facts indicating ac-
2 tivity violating this subchapter;

3 “(D) specify the interactive computer serv-
4 ice to which it applies; and

5 “(E) specifically identify the location of the
6 online site or hypertext link to be removed or
7 access to which is to be disabled.

8 “(2) COORDINATION WITH OTHER LAW.—An
9 interactive computer service that does not violate
10 this subchapter shall not be liable under section
11 1084 of title 18, United States Code, except that the
12 limitation in this paragraph shall not apply if an
13 interactive computer service has actual knowledge
14 and control of bets and wagers and—

15 “(A) operates, manages, supervises, or di-
16 rects an Internet website at which bets or wa-
17 gers may be placed, received, or otherwise made
18 or at which bets or wagers are offered to be
19 placed, received, or otherwise made; or

20 “(B) owns or controls, or is owned or con-
21 trolled by, any person who operates, manages,
22 supervises, or directs an Internet website at
23 which bets or wagers may be placed, received,
24 or otherwise made, or at which bets or wagers

1 are offered to be placed, received, or otherwise
2 made.

3 “(3) RULE OF CONSTRUCTION.—The provisions
4 of paragraph (2) do not affect any potential liability
5 of an interactive computer service or other person
6 under any provision of title 18, United States Code,
7 other than as specifically provided in paragraph (2).

8 “(e) FACTORS TO BE CONSIDERED IN CERTAIN
9 CASES.—In considering granting relief under this section
10 against any payment system, or any participant in a pay-
11 ment system that is a creditor, credit card issuer, financial
12 institution, operator of a terminal at which an electronic
13 fund transfer may be initiated, money transmitting busi-
14 ness, or international, national, regional, or local network
15 utilized to effect a credit transaction, electronic fund
16 transfer, stored value product transaction, or money
17 transmitting service, or a participant in such network, the
18 court shall consider—

19 “(1) the extent to which the person extending
20 credit or transmitting funds knew or should have
21 known that the transaction was in connection with
22 Internet gambling;

23 “(2) the history of such person in extending
24 credit or transmitting funds when such person knew

1 or should have known that the transaction is in con-
2 nection with Internet gambling;

3 “(3) the extent to which such person has estab-
4 lished and is maintaining policies and procedures in
5 compliance with rules and regulations issued under
6 this subchapter;

7 “(4) the extent to which it is feasible for any
8 specific remedy prescribed as part of such relief to
9 be implemented by such person without substantial
10 deviation from normal business practice; and

11 “(5) the costs and burdens that the specific
12 remedy will have on such person.

13 “(f) NOTICE TO REGULATORS AND FINANCIAL INSTI-
14 TUTIONS.—Before initiating any proceeding under sub-
15 section (b) (or under subsection (c), in the case of an in-
16 sured institution or a broker or dealer or investment com-
17 pany registered with the Securities and Exchange Com-
18 mission), with respect to a violation or potential violation
19 of this subchapter or the rules or regulations issued under
20 this subchapter by any creditor, credit card issuer, finan-
21 cial institution, operator of a terminal at which an elec-
22 tronic fund transfer may be initiated, money transmitting
23 business, or international, national, regional, or local net-
24 work utilized to effect a credit transaction, electronic fund
25 transfer, stored value product transaction, or money

1 transmitting service, or any participant in such network,
2 the Attorney General of the United States, an attorney
3 general (or other appropriate State official) of a State, or
4 an agency authorized to initiate such proceeding under
5 this subchapter, shall—

6 “(1) notify such person, and the appropriate
7 regulatory agency (as determined in accordance with
8 section 5362(f) for such person) of such violation or
9 potential violation and the remedy to be sought in
10 such proceeding; and

11 “(2) allow such person not longer than 60 days
12 to implement a remedy for the violation or potential
13 violation, consistent with the factors described in
14 subsection (e), and in conjunction with such action
15 as the appropriate regulatory agency may take, if
16 such person takes reasonable steps within that 60-
17 day period to prevent the occurrence of such viola-
18 tion or potential violation pending implementation of
19 such remedy.

20 **“§ 5365. Criminal penalties**

21 “(a) IN GENERAL.—Whoever violates any provision
22 of this subchapter or the rules or regulations issued under
23 any provision of this subchapter shall be fined under title
24 18, United States Code, or imprisoned for not more than
25 5 years, or both.

1 “(b) PERMANENT INJUNCTION.—Upon conviction of
2 a person under this section, the court may enter a perma-
3 nent injunction enjoining such person from placing, receiv-
4 ing, or otherwise making bets or wagers or sending, receiv-
5 ing, or inviting information assisting in the placing of bets
6 or wagers.

7 **“§ 5366. Circumventions prohibited**

8 “Notwithstanding section 5361(2), a creditor, credit
9 card issuer, financial institution, operator of a terminal
10 at which an electronic fund transfer may be initiated,
11 money transmitting business, or international, national,
12 regional, or local network utilized to effect a credit trans-
13 action, electronic fund transfer, stored value product
14 transaction, or money transmitting service, or any partici-
15 pant in such network, or any interactive computer service
16 or telecommunications service, may be liable under this
17 subchapter if such creditor, issuer, institution, operator,
18 business, network, or participant has actual knowledge
19 and control of bets and wagers, and—

20 “(1) operates, manages, supervises, or directs
21 an Internet website at which bets or wagers may be
22 placed, received, or otherwise made, or at which bets
23 or wagers are offered to be placed, received, or oth-
24 erwise made; or

1 “(2) owns or controls, or is owned or controlled
2 by, any person who operates, manages, supervises,
3 or directs an Internet website at which bets or wa-
4 gers may be placed, received, or otherwise made, or
5 at which bets or wagers are offered to be placed, re-
6 ceived, or otherwise made.

7 **“§ 5367. Rule of construction**

8 No provision of this subchapter shall be construed as
9 altering, superseding, or otherwise affecting the applica-
10 tion of the Indian Gaming Regulatory Act.

11 **“§ 5368. Authorization of appropriations**

12 There are authorized to be appropriated to the Sec-
13 retary such sums as may be necessary to carry out this
14 subchapter.”.

15 (b) CLERICAL AMENDMENT.—The table of sections
16 for chapter 53 of title 31, United States Code, is amended
17 by adding at the end the following:

“5361. Definitions.

“5362. Office of electronic funding oversight; policies and procedures to identify
and prevent restricted transactions.

“5363. Prohibition on acceptance of any bank instrument for Internet gambling.

“5364. Civil remedies.

“5365. Criminal penalties.

“5366. Circumventions prohibited.

“5367. Rule of construction.

“5368. Authorization of appropriations.”.

18 **SEC. 4. INTERNET GAMBLING IN OR THROUGH FOREIGN**
19 **JURISDICTIONS.**

20 (a) IN GENERAL.—In deliberations between the
21 United States Government and any other country on

1 money laundering, corruption, and crime issues, the
2 United States Government shall—

3 (1) encourage cooperation by foreign govern-
4 ments and relevant international fora in identifying
5 whether Internet gambling operations are being used
6 for money laundering, corruption, or other crimes;

7 (2) advance policies that promote the coopera-
8 tion of foreign governments, through information
9 sharing or other measures, in the enforcement of
10 this Act and the amendments made by this Act; and

11 (3) encourage the Financial Action Task Force
12 on Money Laundering, in its annual report on
13 money laundering typologies, to study the extent to
14 which Internet gambling operations are being used
15 for money laundering purposes.

16 (b) REPORT REQUIRED.—The Secretary of the
17 Treasury shall submit an annual report to Congress on
18 any deliberations between the United States and other
19 countries on issues relating to Internet gambling.

20 **SEC. 5. AMENDMENTS TO CRIMINAL GAMBLING PROVI-**
21 **SIONS.**

22 (a) AMENDMENT TO DEFINITION.—Section 1081 of
23 title 18, United States Code, is amended—

1 (1) by designating the 5 undesignated para-
2 graphs that begin with “The term” as paragraphs
3 (1) through (5), respectively; and

4 (2) in paragraph (5), as so designated—

5 (A) by striking “wire communication” and
6 inserting “communication”;

7 (B) by inserting “satellite, microwave,”
8 after “cable,”; and

9 (C) by inserting “(whether fixed or mo-
10 bile)” after “connection”.

11 (b) APPLICATION OF SECTION 1084(a) TO ALL COM-
12 MUNICATIONS AND INCREASE IN PENALTY FOR TRANS-
13 FERS OF WAGERING INFORMATION.—Section 1084(a) of
14 title 18, United States Code, is amended—

15 (1) by striking “wire” each place that term ap-
16 pears; and

17 (2) by striking “two years” and inserting “5
18 years”.